

AUG 11 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARTIN AGUILAR-MERAS,

Defendant - Appellant.

No. 06-30183

D.C. No. CR-05-02121-LRS

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of Washington
Lonny R. Suko, District Judge, Presiding

Submitted August 7, 2006^{**}

Before: SCHROEDER, Chief Judge, REINHARDT and HAWKINS, Circuit Judges.

We have reviewed the record, the opening brief and the response to the government's motion for summary affirmance and we conclude that the questions raised in this appeal are so insubstantial as not to require further argument. *See*

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

06-30183

United States v. Hooton, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). We have rejected the contention that the fact of the temporal relationship of the removal to the prior conviction is beyond the scope of the Supreme Court's recidivism exception. *See United States v. Castillo-Rivera*, 244 F.3d 1020, 1025 (9th Cir. 2001); *see also United States v. Weiland*, 420 F.3d 1062, 1079 n.16 (9th Cir. 2005) (noting that this court remains bound by the Supreme Court's holding in *Almendarez-Torres* that a district court judge may enhance a sentence on the basis of prior convictions, even if the fact of those convictions was not found by a jury beyond a reasonable doubt).

Accordingly, the government's motion for summary affirmance of the district court's judgment is granted.

AFFIRMED.